

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

LATISHEA WAGGONER,)
)
Plaintiff,)
) Civil No. 3:05-0590
v.)
) Judge Trauger
SPHERION,)
) Magistrate Judge Griffin
Defendant.)

O R D E R

On August 4, 2005, the Magistrate Judge issued a Report and Recommendation, recommending that process issue to the defendant on the plaintiff's claim of race discrimination but that her claims of retaliation and under the Age Discrimination in Employment Act be dismissed. (Docket No. 3) The plaintiff has filed an objection to the dismissals contained within the Report and Recommendation. (Docket No. 4)

The plaintiff appears to be alleging in her filing that she was terminated in retaliation for following what had been a "normal procedure" since she began working for the defendant. However, she only has a valid retaliation claim under Title VII if she was retaliated against for engaging in activity protected by Title VII, not for following a company policy. In the form Complaint, the plaintiff has checked the box that states that she was retaliated against "for having filed a charge of discrimination." (Docket No. 1 at 3) The Magistrate Judge accurately observed that this is an impossible allegation because she was terminated before she ever filed her charge of discrimination. Moreover, the Charge of Discrimination attached to the Complaint shows that she did not check the box marked "Retaliation," nor does the narrative account contained within her charge allege that her termination was in retaliation for engaging in

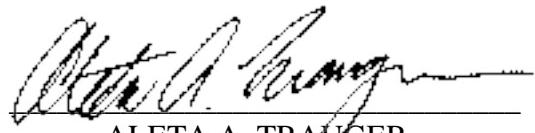
protected activity. Again, she alleges that she was terminated “for violating a company policy that was the standard way of doing business since my employment had begun.”

Because the Magistrate Judge’s conclusions are correct that the plaintiff has not adequately alleged a claim of retaliation or a claim under the Age Discrimination in Employment Act (something that the plaintiff does not dispute in her Objection), the Report and Recommendation is **ACCEPTED** and made the findings of fact and conclusions of law of this court. For the reasons expressed therein, it is hereby **ORDERED** that process shall issue to the defendant on the plaintiff’s claim of race discrimination, but the plaintiff’s claims for retaliation and under the Age Discrimination in Employment Act are **DISMISSED** under 28 U.S.C. § 1915(e)(2)(B) for lack of an arguable legal basis.

This case is returned to the Magistrate Judge for further handling under the original referral Order.

It is so **ORDERED**.

ENTER this 25th day of August 2005.



ALETA A. TRAUGER
U.S. District Judge